

E-Filed 7/24/09

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

RAUL MANZO, an individual, and
ANGELA MANZO, an individual,

No. 5:09 CV 0489 RS

Plaintiffs,

v.

**ORDER VACATING MOTION
HEARING AND CASE
MANAGEMENT CONFERENCE
AND REQUESTING
FURTHER BRIEFING**

WACHOVIA MORTGAGE CORPORATION,
a North Carolina Corporation; WORLD
SAVINGS BANK, F.S.B., a Federal Savings
Bank; GOLDEN WEST SAVINGS
ASSOCIATION SERVICE CO., AS TRUSTEE;
and DOES 1 through 50, inclusive,

Defendants.

THIS MATTER is before the Court following a notice of bankruptcy filed by plaintiffs Raul and Angela Manzo. Consequently, the hearing on defendants' motions to dismiss, scheduled for August 5, 2009, and the case management conference, scheduled for September 2, 2009, are vacated. The automatic stay imposed by a declaration of bankruptcy is inapplicable to lawsuits brought by the debtor. *In re Merrick*, 175 B.R. 333, 337 (B.A.P. 9th Cir. 1994). Nonetheless, any such pending lawsuit becomes a chose of action in the bankruptcy estate. *Id.* at 336. Accordingly, the parties (and, if desired, the bankruptcy trustee) are requested to brief the Court within 30 days on their current positions as to the pendency of the instant lawsuit.

IT IS SO ORDERED.

Dated: 7/24/09



RICHARD SEEBORG
United States Magistrate Judge